

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

X

In re:

FRITZ CLAIRVIL

**Return Date: April 13, 2016**  
**Time: 10:00 a.m.**

Chapter 13  
Case No.: 116-40580-608

Debtor(s)

X

SIRS / MADAMS:

**NOTICE OF MOTION**

**PLEASE TAKE NOTICE**, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Carla E. Craig, United States Bankruptcy Judge, on the 13<sup>th</sup> day of APRIL, 2016 at 10:00AM, at the United States Bankruptcy Court located at 271 Cadman Plaza East – Courtroom 3529, Brooklyn, New York 11201, for an Order pursuant to 11 U.S.C. §§521 & 1307(c), dismissing this case, by reason of the debtor(s)' failure to provide and/or file documents, and for such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that answering papers, if any, shall be filed with the Court and served on the undersigned no later than seven (7) days prior to the return date of this motion.

Dated: Islandia, New York  
March 24, 2016

Yours, etc.

MICHAEL J. MACCO  
Chapter 13 Trustee  
2950 Express Drive South, Suite 109  
Islandia, NY 11749  
(631) 549-7900

To: *Office of the United States Trustee*  
*Fritz Clairvil*  
*Bruce Weiner, Esq., Attorney for Debtor(s)*  
*Wells Fargo Bank, NA, Creditor*

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In re:

FRITZ CLAIRVIL

X

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Chapter 13  
Case No.: 116-40580-608

Debtor(s)

**APPLICATION**

X

TO THE HONORABLE CARLA E. CRAIG, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, respectfully represents, as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on February 11, 2016, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.
2. As of this date of the motion, the debtor(s) has failed to provide the Trustee with copies of 2015 State and Federal Tax Returns; lease agreement; an affidavit of contribution including paystubs attached from spouse for \$4,501.57; list of business assets and their fair market value including aging accounts receivable; operating reports with bank statements and proof of tax deposits; an amended Chapter 13 Plan; an amended Schedule I; an amended means test; utility bills for the month of February including gas/oil, water, telephone; electric, and cable; 2012 through 2015 tax transcripts; bank statements from all accounts from August 1, 2015 through February 29, 2016 all pages; commence motion regarding second mortgage; proof of post-petition mortgage payments; proof of monthly segregation of income taxes into a separate account; and turnover 2015 tax refunds to Trustee upon receipt or document date when tax refunds were received.
3. This is a material default and is prejudicial to the rights of the creditors of the debtor.

**WHEREFORE**, the Trustee prays for an Order pursuant to the provisions of 11 U.S.C. §§521 & 1307(c), dismissing this case, and for such other and further relief as this Court deems just and proper.

Dated: Islandia, New York  
March 24, 2016

/s/ Michael J. Macco

Michael J. Macco, Chapter 13 Trustee  
2950 Express Drive South, Suite 109  
Islandia, NY 11749  
(631) 549-7900

STATE OF NEW YORK      )  
COUNTY OF SUFFOLK      )      ss.:

LONI BRAGIN, being duly sworn deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Suffolk County, New York.

On March 24, 2016, deponent served the within:

**NOTICE OF MOTION AND APPLICATION**

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Office of the United States Trustee  
U.S. Federal Office Building  
201 Varick Street, Ste. 1006  
New York, NY 10014*

*Fritz Clairvil  
8423 Avenue N  
Brooklyn, NY 11236*

*Bruce Weiner, Esq.  
Attorney for Debtor(s)  
26 Court Street, Ste. 2211  
Brooklyn, NY 11242*

*Wells Fargo Bank, NA  
c/o Stein, Wiener & Roth, LLP  
1 Old Country Road, Ste. 113  
Carle Place, NY 11514*

/s/ Loni Bragin  
*LONI BRAGIN*

Sworn to before me this  
24<sup>th</sup> day of MARCH, 2016

/s/ Janine M. Zarrilli

NOTARY PUBLIC  
Janine M. Zarrilli  
Notary Public, State of New York  
No. 01ZA5084708  
Qualified in Nassau County  
Commission Expires September 8, 2017